

VZCZCXRO1218
PP RUEHCHI RUEHDT RUEHHM RUEHNH RUEHTRO
DE RUEHGO #0639/01 2651047
ZNY CCCCC ZZH
P 221047Z SEP 09
FM AMEMBASSY RANGOON
TO RUEHC/SECSTATE WASHDC PRIORITY 9474
INFO RUCNASE/ASEAN MEMBER COLLECTIVE
RUEHGG/UN SECURITY COUNCIL COLLECTIVE
RUEHBY/AMEMBASSY CANBERRA 2278
RUEHNE/AMEMBASSY NEW DELHI 5739
RUEHUL/AMEMBASSY SEOUL 9343
RUEHKO/AMEMBASSY TOKYO 6927
RUEAIIA/CIA WASHDC
RHHMUNA/CDR USPACOM HONOLULU HI
RUEHGV/USMISSION GENEVA 4676
RHEHNSC/NSC WASHDC
RUCNDT/USMISSION USUN NEW YORK 2712
RUEKJCS/SECDEF WASHDC
RUEHBS/USEU BRUSSELS
RUEKJCS/JOINT STAFF WASHDC

C O N F I D E N T I A L SECTION 01 OF 02 RANGOON 000639

SIPDIS

STATE FOR EAP AND IO; PACOM FOR FPA

E.O. 12958: DECL: 09/22/2019

TAGS: [PGOV](#) [PREL](#) [PHUM](#) [BM](#)

SUBJECT: BURMA: LAWYERS FOR ASSK DISCUSS APPEAL, ACCESS,
AND HER MESSAGE TO THE PARTY

REF: A. RANGOON 637

[1](#)B. RANGOON 627

[1](#)C. RANGOON 608

Classified By: P/E Chief Jennifer A. Harhigh for Reasons 1.4 (b) & (d)

Summary

[1](#)1. (C) During a September 22 meeting with P/E Chief, Aung San Suu Kyi (ASSK) lawyers Kyi Win (aka Neville) and Nyan Win confirmed they argued during the September 18 Divisional Court appeal that the 1974 Constitution and laws enacted under it that governed ASSK's 2003-2009 house arrest are invalid. Nyan Win said it is not clear if ASSK's personal physician, Dr. Tin Myo Win (aka Douglas) will have regular access to her. Nyan Win said authorities have not yet responded to the National League for Democracy (NLD) Central Executive Committee (CEC) September 16 request to see ASSK, but they have granted ASSK permission to meet her legal team again, likely September 24. Nyan Win said ASSK has a message to pass to her party regarding sanctions, but he cited a need for her permission to share the statement with us. End summary.

Next Steps in the Appeal

[1](#)2. (C) On September 22, Neville recounted to P/E Chief his September 18 arguments (Ref A) to Rangoon Divisional Court regarding the invalidity of the 1974 Constitution, adding that ASSK herself had pushed for this legal strategy. He said that the Divisional Court has two options when it renders a decision October 2: agree with the appeal and render the charges against ASSK null and void, which would amount to a full acquittal; or dismiss the appeal completely. If the appeal is dismissed, ASSK's attorneys must request a "revision" at the Supreme Court level within 60 days, an option they plan to exercise. The "revision" operates much like the appeal process; however, a citizen is guaranteed the right to an appeal but not necessarily a revision. Neville added that if both the Divisional Court appeal and the Supreme Court revision are unsuccessful, he will pursue a final appeal to the Special Supreme Court (Ref B).

¶3. (C) Nyan Win confirmed he had spoken with Douglas after Douglas examined ASSK September 20. Douglas reported ASSK appeared in good health but has low blood pressure. Nyan Win said authorities have not indicated yet if Douglas will be granted regular monthly access as was the case prior to the Yettaw incident in early May that sparked ASSK's trial.

CEC Waiting for Access; Lawyers Expect ASSK Meeting September 24

¶4. (C) Nyan Win said authorities have not responded to a letter the CEC sent September 16 requesting a meeting with ASSK (Note: We understand the letter was addressed to Than Shwe. End note.). Nyan Win expects the GOB will allow an architect to visit ASSK's compound the week of September 28. He said authorities have agreed to allow ASSK to meet her legal team again. Nyan Win expects that meeting will take place September 24.

ASSK Message to NLD?

¶5. (C) When asked, Nyan Win acknowledged that both he and Douglas have been discussing politics with ASSK during their meetings. Nyan Win reiterated ASSK has a political message to pass to her party (Ref C), adding he cannot share it

RANGOON 00000639 002 OF 002

without her permission. When pressed, Nyan Win admitted the message concerns "the embargo, sanctions" and indicated it may be a slight, but not major, shift in "ideology." P/E Chief observed ASSK's sentiments are extremely valuable as the USG conducts its policy review, and Nyan Win promised to seek ASSK's permission to reveal the message to us following their September 24 meeting.

DINGER